

HEALTH FACILITY COMMITTEE MEETING
Cannon Health Building, Room 114
9:00 a.m., March 24, 2000

Members Present: Helen Rollins; Kathleen Fitzgerald; Kathy Siskin; Glade Bigler; Paul Clayton; Travis Jackman; Steve Bateman; Gayle Morowitz; Leora Medina; Timothy Thomas; Lou Ann Jorgensen; and Joyce Wanta.

Members Absent: Steven Anderson

Staff: Debra Wynkoop; David Eagar; Joel Hoffman; Wendee Pippy; Larry Naylor; Donna Riley; and Joan Isom.

The meeting was called to order at 9:04 a.m.

1. **Welcome :**

Ms. Rollins welcomed all in attendance.

2. **December 17, 1999, Minutes:**

Dr. Clayton amended the minutes to read “invasive procedure” not “evasive procedure” in the End of Life Portability section. Ms. Fitzgerald made a motion to accept the minutes and to include the amendment proposed by Dr. Clayton. Mr. Thomas seconded the motion. The **MOTION PASSED** unanimously.

3. **Licensure Actions/Sanctions :**

David Eagar reported on the Licensure Sanctions/Actions for the Southern Region. Joel Hoffman reported on the Licensure Sanctions/Actions for the Central/Northern Region.

Larry Naylor reported on the Licensure Sanctions/Actions for the Dixie Region. (See attached chart on License Sanctions/Actions.)

4. **Sub-Committee Reports:**

a. **Assisted Living :**

Kathy Siskin stated that the sub-committee had met several times to review changes to the rules, but that the committee had concerns about two of the proposed changes. The first is the administration of medication, an attorney will examine the change as it applies to liability issues. The second is what a secured unit should include. Ms. Siskin explained that by the next meeting all of the information would be ready to present to the Health Facility Committee. Ms. Wynkoop inquired whether the sub-committee had discussed the staff to patient ratios?

Ms. Siskin stated that they had discussed this thoroughly, but felt that when a facility accepts a patient, they are responsible to provide care to that individual and to staff accordingly.

Mr. Eagar interjected that part of the fire marshal's input will be concerning ratios. The fire marshal's interpretation of the Assisted Living Rule for the secured unit would be that they would need designated staff 24 hours a day.

b. Ambulatory Surgical Sub-Committee:

Dr. Clayton explained that the sub-committee had met once. At the meeting there was some differences concerning the issues so the committee decided to adjourn and gather additional information, review the regulations, evaluate the proposed rule change and see which areas can be agreed on. The next sub-committee meeting is on April 4, 2000.

5. R432-300 Type N- Presentation of Rule to Sub-committee:

Mr. Eagar presented the draft rule and discussed the changes. Ms. Wynkoop inquired whether the 14 existing type N facilities would be grandfathered in the current rule if the owner/licensee was not a nurse. Mr. Eagar explained that the sub-committee did not think that the existing facilities should be grandfathered in. The sub-committee felt that to have three dependent residents was an unrealistic burden to the caregiver. He also explained that the sub-committee did not expect the facilities to have extra paid staff for the evacuation process, at night, but that the caregiver's husband could be considered extra staff in case of an emergency.

Ms. Rollins inquired whether the 14 existing type N owners have seen the rules and the concept summary. Mr. Eagar responded that this information had been sent to them.

Ms. Morawetz questioned whether the owner had always had to be a nurse and that if the state knows of all of the facilities that are in the state. Mr. Eagar explained that the owner rule requirement was changed a few years ago. At that time there were several facilities that were grandfathered in, but had to have a nurse as a consultant. Mr. Eagar also explained that the Bureau does not know of unlicensed facilities.

Ms. Medina inquired whether the owner of the type N facility has to be at the facility at all times. Mr. Eagar responded that they would like the nurse to be at the facility during the daytime hours so that they would be available to supervise the care.

Mr. Naylor inquired whether type N facilities would be allowed a variance, if they had two dependent patients? Mr. Eagar responded that there could possibly be variances requested.

Ms. Siskin stated that the sub-committee members were very supportive concerning the changes. Ms. Wynkoop stated that the Bureau had received no adverse comments concerning the proposed rules changes.

Dr. Jorgenson made the motion to move the rule forward to the rule making process. Ms. Medina seconded the motion. The **MOTION PASSED** unanimously.

6. Certified Nursing Assistant (CNA) Home Health Aide (HHA) Concept

Summary:

Ms. Wynkoop reminded the committee that on September 23, 1999, Susan Lewson, DATC, presented the Bureau with a proposal to make the CNA and the HHA one certification. Mr. Hoffman was asked to prepare a document that would list the rules that would be required to change. There would be four technical changes in four of the rules.

Ms. Wynkoop reviewed the concerns from the Utah Health Care Association and they are: 1) this rule would affect the pool of aids to draw upon; 2) Home Health Aides make more money than a CNA; and 3) a CNA can be 16 and is supervised, whereas the HHA is required to be at least 18 and is not directly supervised.

Ms. Wynkoop asked whether the committee recommended the rule change. Public comments were recognized by the chair.

Ms. Joan Gallegos, Utah Health Care Association, stated that at the previous Health Facility Committee Meeting that both she and Mr. Anderson had expressed their concern about the rule change, however, the UHCA's board of directors are evaluating and re-examining their position. She mentioned that Heather Zigliara would be presenting an Issue Paper to the Utah Health Care Association for discussion during their annual meeting next week. Ms. Gallegos explained that their biggest concern is that the health facilities would be responsible for the cost of training the CNA, and then the CNA would leave to work as a HHA. The facility would not be able to recoup their training costs.

Mary Creagar, Utah Home Health Association, explained that based on the federal labor laws, minors are required to be supervised. She recommends that younger CNA's should remain in the Nursing Care Facilities to receive experience and supervision. Ms. Creagar expressed the opinion that the CNA is already leaving the nursing care facility after they have been trained, therefore training dollars are already lost. Ms. Creagar explained that many of the HHAs allowed their CNA certification

to lapse and with the recent home health agency closures, have no employment. Many of the HHAs would like to be able to return to the nursing care business. Ms. Siskin made a motion that this rule move forward.

Ms. Fitzgerald expressed concerns from the home health agencies and HHAs regarding the additional cost to certify. She questioned whether hospitals would be impacted by this change. Mr. Bateman responded that this change should not affect the hospitals.

Ms. Wynkoop explained that many of the hospitals do have Transitional Care Units and have the option to hire individuals who are not certified and then train the employee.

Ms. Siskin made a motion to draft the rule changes.

Ms. Jackman seconded the motion. The **MOTION PASSED** unanimously.

Ms. Wynkoop proposed the draft language be reviewed by Susan Lewson and Heather Zigliara. Susan Lewson reported that the DATC was passing a resolution to reduce the cost of the CNA test from \$46.00 to \$25.00 for all HHA's who want to test. This fee reduction would be time limited (three months) after this rule becomes effective to allow the HHA the opportunity to test.

Ms. Creagar explained that since there is only one certification, all of the current HHA's need to certify as a CNA. This is a one-time cost as long as the HHA/ CNA renews the certificate on time.

Ms. Zigliara, Utah Health Care Association, stated her concern that if the HHA has not completed a certification course that they should be required to complete a course to receive the CNA certification. Ms. Lewson explained that the regulations permit an individual to prove competency through education or training to be a CNA. Ms. Zigliara expressed concern that an individual may be a "good test taker" versus having "good skills." Ms. Creagar responded that there is a written and a skills test. Ms. Lewson explained that the tests are revised every two years. Ms. Creagar explained that UHCA may want to evaluate the Skills Section to ensure that CNA's are proving competencies in the right areas.

Ms. Wynkoop reminded agencies that they are responsible to ensure that employee's are competent to work in the facility by observing their skills.

7. Update on Nurse Leadership Sub-Committee:

Ms. Wynkoop stated that the Nurse Leadership Subcommittee has completed the following: 1) Members completed interviews to determine if students understood the role of the CNA and their duties. West Minister College interviewed their Jr. and Sr. Nursing students and found that 80% of those students have a correct understanding of the role of the CNA, but feel like they have to watch them every minute; 2) The Leadership Subcommittee were concerned that the Bachelors Prepared Nurse, in a Long Term Care Facility, is not prepared for the management role. They expressed

concerns about challenging the administration, when the administrator also owns the facility. The Bachelors Prepared Nurse feels comfortable in a team setting, but when asked to organize, direct and be the real manager, the RN felt unprepared to take on this role. The sub-committee will make a report with recommendations to the Nurse Leadership Forum. Ms. Wynkoop stated that the Forum will present their responses to the Health Facility Committee in May.

8. December Institute of Medicine Report: “To Err is Human”

The Institute of Medicine reported on the adverse medical events and discussed proposed regulations for a Medicare Condition of Participation for the Mandatory Reporting of any Adverse Events in Ambulatory Surgical Care Units and Utah Hospitals. Dr. Scott Williams, Deputy Director, will be meeting with the Utah Health Care Association, the Utah Medical Association, the Utah Nurses Association and the Utah Association of Health Care Providers to create a convening group to propose what needs to be reported. Ms. Wynkoop commented that we should analyze the errors to find out what the root cause is so that we can spend our time in quality improvement.

Mr. Bruce Murray explained that the Utah Association of Health Care Providers has developed a task force to address this issue. They want to increase the confidence of the consumers who receive care in hospital settings.

Ms. Rollins requested that Mr. Murray keep the Health Facility Committee informed of any recommendations that the task force propose.

Ms. Wynkoop also explained that there may need to be statutory changes to protect an individual who reports errors.

9. Report on Office of Public Guardian:

Mr. Wall reported that the responsibility of the Office of Public Guardian is to provide public guardianship services to incapacitated adults who have no one else to provide those services. Mr. Wall stated that from time to time individuals become incapacitated and are unable to manage their own affairs, unable to make adequate decisions about day to day life, and make medical care decisions. When this occurs the court can appoint a public guardian to manage the person’s affairs. The Office of Public Guardian was created in 1999, by the Utah Legislature, Senate Bill 39, the Office of Public Guardian Act. Mr. Wall described the resources and information available from the Office of Public Guardian. Mr. Wall stated the major problem is that the Office does not have adequate funding and they are unable to address the needs for the number of individuals who desperately need the services.

10. End of Life Preference Document:

Ms. Rollins explained that the End-of-Life Preference document addresses the end of life wishes of an individual and makes this document portable within the health care services. This document moves through the health care continuum with a patient. There is an agreement between the Utah Association of Health Care Providers, Utah Medical Association, Utah Nurses Association and the Department of Health that we need to revise the End-of- Life documents in the Uniform Probate Code and perhaps make one document that would provide the important End-of-Life information

needed. Mr. Springmeyer will be chairing a sub-committee to study the End-of-Life care documents. Ms. Wynkoop requested that Ms. Rollins and Mr. Bigler from the Health Facility Committee serve as participants on this committee.

Dr. Jorgenson requested that the Advanced Directive be added to the next Health Facility Committee agenda as a follow-up item so that the issue does not get dropped.

11. Request for Rule Changes:

a. R432-100 Medical Records – New born Hearing Screening:

Ms. Wynkoop explained that during the 1998 Legislative Session, a bill passed which requires hearing testing in newborn infants. The Utah Department of Health reviews infant medical records to ensure that testing and follow-up care is provided. She explained that the hospital rules have not been changed to reflect the requirement. This proposed rule change would make it consistent that there is a requirement to keep the record of the infant hearing screening test. Ms. Wynkoop proposed that this correction be made.

Mr. Bateman stated that the hospitals are ill equipped and that their resources are limited. He explained that he would support this addition to the rule if it is clear what the record should contain. He commented that there is no additional funding to help defray the cost of the documentation in the record.

Mr. Batemen inquired: 1) Who extracts the information to ensure follow-up is completed; 2) Is the hospital responsible to extract the information; 3) Is there a time when all of this information is analyzed; and 4) Are the results of screening available?

Ms. Wynkoop stated that the Newborn Screening staff extracts the information from the hospital's records. She explained that the rule specifies that the newborn screening tests are sent to the Department of Health.

Mr. Bateman made a motion that we accept the motion and that we write the rules that require the cooperation between the two groups, and that we make this motion with the understanding that the hospitals who are collecting the information be involved in determining the effectiveness of the program on a longitudinal basis. Dr. Clayton seconded the motion. The **MOTION PASSED** unanimously. Ms. Wynkoop stated that she would invite Tom to come and give the results of the information that they have been collecting.

b. Ambulatory Surgical Centers- Deemed Status:

Ms. Wynkoop explained that the Accreditation Association for Ambulatory Health Care has requested the State of Utah approve the Association for "deemed status." They are a voluntary accrediting body that does unannounced inspections and are recognized by Medicare. They are requesting that this committee add them to our deemed status list.

Dr. Clayton questioned whether their standards are comparable to our regulations and if the cost is comparable. Ms. Wynkoop explained that the standards address

the regulations. She was unsure if the costs are comparable. Ms. Fitzgerald made the motion to approve. Dr. Jorgenson seconded the motion. The **MOTION PASSED** unanimously.

12. Other Business

Ms. Wynkoop proposed that the next meeting be changed from May 26, 2000 to May 19, 2000. A follow-up flyer would be sent out as a reminder.

Meeting adjourned at 11:20 a.m.

Helen Rollins, Chairperson

Debra Wynkoop, Executive Secretary